

**Appl. No.** : **09/847,759**  
**Filed** : **May 2, 2001**

### REMARKS

The foregoing amendments and the following remarks are responsive to the February 5, 2007 Office Action. Claims 1-20, 22-24, 26-37, 39, 49-53, and 56-67 remain pending in the present application. As noted above, relative to U.S. Patent No. 6,044,983, Claims 1, 6-8, and 14, have been amended. Additionally, through the course of prosecution of the present re-issue Application, Claims 20, 22, 23, 26, 30, 36, 53, and 56-58 have also been added and amended. Of these Claims, Claims 20, 30, and 36 have been twice amended. Finally, Claims 21, 25, 38, 40-48, 54, and 55 were added then canceled.

In accordance with the Examiner's request, the Claims set forth above include markings showing changes made relative to U.S. Patent No. 6,044,983 and status indicators showing the status of the claims up to this point in the prosecution of the present re-issue Application. No new changes to the claims have been introduced by way of the present Amendment. Rather, all of the changes to the claims set forth above merely represent the cumulative changes to the claims during the prosecution of the present re-issue application. As such, the presentation of the claims set forth above is submitted for housekeeping purposes.

In response to the Office Action mailed February 5, 2007, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

#### The Reply Filed on September 11, 2006 Fully Responded to the Prior Office Action

Applicant submitted a response to a March 2, 2006 Office Action requesting a "housecleaning" response, intended to summarize and accumulate amendments made to the specification, drawings, and claims, showing the present state of the application. The response was submitted on September 11, 2006.

In the February 5, 2007 Office Action, the Examiner stated the September 11, 2006 response was non-responsive because it did not set forth an explanation of the support in the disclosure of the patent for the amendments. Applicant respectfully disagrees, as references were provided to specific, relevant portions of the specification, and not blanket references to the specification as a whole. However, insofar as Applicant seeks to expedite prosecution of the application, inclusion of disclosure from the previously-referenced portions of the specification with accompanying explanation is provided.

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Below is a recitation of location of support for each amendment or new claim, including detailed sections of support for the Examiner's convenience.

Claims 1-20, 22-24, 26-37, 39, 49-53, and 56-67 are in Condition for Allowance

The Examiner had requested a "housekeeping" amendment with the inclusion of all amendments made to the issued claims and specification. The above listings of claims and paragraphs of the present specification are cumulative of all amendments made to date.

With regard to the claims, new Claims 20, 22-24, 26-37, 39, 49-53, and 56-67 recite subject matter disclosed but not claimed in U.S. Patent No. 6,044,983. Applicant therefore submits that no new matter has been introduced.

In support of the amendments to Claims 1, 6, 7, 8, and 14, and new Claims 20, 22-24, 26-37, 39, 49-53, and 56-67, Applicant has set forth below an explanation of the support in the disclosure for the new claims, in accordance with 37 C.F.R. § 1.173(c).

With respect to the amendments to Claims 1 and 14, Applicant respectfully directs the Examiner to Column 2, lines 33-46, Column 3, lines 52-53, Column 4, lines 37-39. For the recitation, "configured to rest on and engage one of the shelves which is horizontal or inclined, the shelf structure comprising," the Examiner is directed to the statement:

[I]t will appear that these goods in the glide rack can be the same goods that previously were in the glide rack that was directly on a shelf of a visi-cooler or walk-in cooler beneath which additional items will be added on the extra shelf space provided by the invention.

Column 2, lines 37-42.

The recitation of a "shelf structure configured to rest on and engage one of the shelves" is supported by the disclosure of a shelf that "is supported on an inclined shelf of a walk in cooler." Additionally, the original specification discloses that "[t]he support legs support the shelf above another structure (not shown) such as a shelf in a walk-in cooler, for example." Column 2, lines 54-56.

The recitation that the shelf may be "horizontal or inclined" is supported by the disclosure of the phrase "...when the framework at 22b is supported on an inclined shelf of a walk-in cooler..." and "[u]se of the described shelf structure on a horizontal or inclined shelf of a visi-cooler or walk-in cooler has already been suggested." Column 3, lines 52-53; Column 4, lines 37-39.

For the recitation, “configured to support additional shelving above the first plane,” the Examiner is directed to Column 2, line 65-Column 3, line 6. Specifically, the specification indicates that “[i]n this embodiment, the support legs 22a have equal lengths so that the shelf at 16 and framework at 22b or, more specifically, rods 36 thereof define first and second parallel planes.” The additional parallel planes can be additional shelving, and hence, the shelf or framework are configured to support it.

With respect to the amendments to Claims 6, 7, and 8, these Claims were amended into independent form with the only change being the deletion of the phrase “on or under one of the shelves,” as noted in the Amendment filed May 28, 2002. Thus, Applicant submits that the original versions of Claims 6, 7, and 8 provide sufficient support for the present version of these claims.

With respect to new Claim 20, Applicant respectfully directs the Examiner to Column 2, lines 43-44 and 57-64, Column 3, lines 3-6 and 42, and Column 5, lines 27-32. Figure 1 clearly shows these elements of Claim 20. The support structure is illustrated in FIG. 1 as having a forward portion 24 and a rear portion 26. The first and second pairs of support legs 22a are shown connected to the forward and rear portions 24, 26. As explained in the specification, “it would be equivalent in another embodiment (not shown) to have the shelf at 16 fastened under the other structure to hang the framework under the other structure.” Column 2, lines 57-60.

Additionally, the rearward portion of the support assembly can be “sized so as to allow beverage containers to be inserted between a rear portion of the shelf and the rearward portion of the support assembly,” as described by “[b]ecause the glide rack will hold the goods for this embodiment, there is substantial space between the rods.” Column 2, lines 43-44. A “stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label” can be seen as the stop 30 in FIG. 1. “The stop on the panel structure at 30...” Column 3, line 42. Additionally, the specification discloses that

The front panel 40 can carry indicia of the items to be stocked behind it. Such indicia can be fixed as part of a marketing system for smaller-than-usual cans, for example... In either case, the front panel will be at the inside of the glass door of the visi-cooler, as described above for conspicuous display of its indicia.

Column 5, lines 27-32.

Finally, the first and second pairs of support legs can be “sized such that the forward portion hangs lower than the rearward portion when the rack is hanging,” as recited as, “[i]n other, equivalent embodiments ... the support legs may have unequal lengths so that the rear at 14 of the shelf at 16 is higher ... than the front at 12 of the shelf.” Column 3, lines 2-6.

With respect to the recitations of Claim 22, the panel can form the stop, as described above.

With respect to the recitations of Claims 23 and 26 that the panel include a substantially vertical surface and is spaced forwardly from the first pair of support legs, the specification discloses that panel can include “at least one substantially vertical surface”, as described above and illustrated by components 30 and 40 in FIG. 1. Additionally, FIG 1 shows that the top can be “spaced forwardly from the first pair of support legs.”

With respect to Claims 24 and 35, Applicant respectfully directs the Examiner to Column 2, lines 62-64, which discloses that “the panels 10e, 10f could have holes ... for threaded fasteners to a cooler shelf.” Thus, the recitation of “threaded fasteners connecting the upper ends of the first and second pairs of support legs to the shelf,” is fully supported by the specification.

With respect to Claims 27, 33, 34, and 37, Applicant respectfully directs the Examiner to Column 4, line 65-Column 5, line 15. The recitation of cans having ‘at least one dimension less than about 2.5”’ is disclosed in the section including:

If, in a marketing strategy, cans are provided with a diameter slight smaller than the typical beverage can, for example, about 2 inches in diameter as opposed to about 2.5 inches for a typical beverage can, then it will be appreciated that substitution of such typical beverage cans by competitors can be prevented by making the clearance provided by the supports 22a sufficient to accommodate only the smaller diameter cans.

It will be appreciated by those in the industry that one beverage can is often substituted in the cooler space of another in the keen competition for shelf space. Therefore, providing a restrictive clearance with the lengths of the supports 22a is a marketing advantage to the supplier of beverages in such smaller-diameter cans in that it prevents competitor’s substitution of larger cans.

Column 4, line 67-column 5, line 15.

With respect to Claims 28 and 29, Applicant respectfully directs the Examiner to Column 3, lines 52-59. The recitation of a “plurality of parallel files of beverage containers” is supported

by the disclosure that “the framework at 22b includes three front-to-rear divider rods and lateral side rods 37 at intervals across the framework defining channels for the files of cans.” Similarly, the recitation of a wire frame “configured to allow cylindrical beverage containers to roll along an upper surface” is fully supported by the disclosure that, “when the framework at 22b is supported on an inclined shelf of a walk-in cooler, for example, the cans toward the rears of the files roll down the rods 36 to the lip 34 as the cans at the front 24 are respectively removed from the files.” Column 3, lines 52-56.

With respect to Claim 30, Applicant respectfully directs the Examiner to Column 2, lines 52-64 and Column 3, lines 3-6, as explained above, for all recitations of Claim 30.

With respect to Claim 31, Applicant respectfully directs the Examiner to Column 1, lines 44-50, which describe “a shelf adjustably mounted within a display case” as thusly:

Shelves in visi-coolers, walk-in coolers and other places often are set in their structures by clips that engage notches that progress at intervals vertically at the corners of the shelves. In such arrangements, it is often a simple matter to set the clips for the fronts of the shelves a notch or two lower than the clips for the rears of the shelves to provide a desired incline.

With respect to Claim 32, Applicant respectfully directs the Examiner to Column 6, lines 10-27, where the recitation of a “rack narrower than a shelf” is fully supported by the disclosure that, “[i]t may be that, as a rule, the shelf structure cannot be wider than the pre-existing cooler shelf for which it is intended, but it can be narrower.”

With respect to Claim 36, Applicant respectfully directs the Examiner to Column 2, lines 57-64 and Column 3, lines 3-6, as explained above with regard to Claim 20.

With respect to Claims 39, Applicant respectfully directs the Examiner to Column 4, lines 5-11. There, the recitation of “means for allowing a cylindrical beverage container to pass upwardly between the stop and a forward edge of the shelf when the rack is hanging from the shelf” is fully supported by the disclosure that “[i]n order to remove the cans from the fronts at 24, the panel structure of the lip 32 is spaced rearwardly from the lip 34 of the panel structure at 30.”

With respect to Claim 49, Applicant respectfully directs the Examiner to Column 2, line 43-Column 3, line 2, as explained above with regard to Claim 20.

With respect to Claim 50, Applicant respectfully directs the Examiner to Column 2, lines 52-54, as explained above with regard to Claim 20.

With respect to Claims 51, Applicant respectfully directs the Examiner to Column 2, lines 56-62, as explained above with regard to Claim 20.

With respect to Claims 52, Applicant respectfully directs the Examiner to Column 2, lines 62-64, as explained above with regard to Claims 24 and 35.

With respect to Claims 53, 56, and 57, Applicant respectfully directs the Examiner to Column 2, line 38-Column 3, line 45, as explained above with regard to Claim 20.

With respect to Claims 58, Applicant respectfully directs the Examiner to Column 3, lines 45-59, as explained above with regard to Claims 28 and 29.

With respect to Claim 59, Applicant respectfully directs the Examiner to Column 2, lines 54-64, as explained above with regard to Claim 24.

With respect to Claims 60 and 61, Applicant respectfully directs the Examiner to Column 2, lines 46-64 and FIG. 1. The recitation of “horizontally extending” plates that include apertures is fully supported by the disclosure of components 10e and 10f in FIG. 1, with the accompanying description at column 2, lines 62-64, which discloses that “the panels 10e, 10f could have holes (not shown) for threaded fasteners to a cooler shelf.” Thus, the “apertures” in the panels are fully supported.

With respect to Claims 62, Applicant respectfully directs the Examiner to Column 2, lines 56-64, as explained above with regard to Claims 60 and 61.

With respect to new Claims 63 and 64, Applicant respectfully directs the Examiner to Column 2, lines 57-64, Column 3, lines 3-6, Column 4, lines 5-10, and Column 5, lines 27-32, as explained above with regard to Claims 20 and 39.

With respect to Claim 65, Applicant respectfully directs the Examiner to Column 4, lines 15-16, where a “curved panel” is disclosed thusly: “[the panel structure] also has a front panel 40 that is shown substantially vertical, but preferably, in another embodiment (not shown), is curved for aesthetic complement...”

With respect to Claim 66, Applicant respectfully directs the Examiner to col. 2, lines 62-64, as described above with regard to Claim 24 and 35.

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With respect to Claim 67, Applicant respectfully directs the Examiner to col. 2, lines 52-54, and FIG. 1, in particular, rod 10a. In this portion, the specification discloses that support “legs 22a are formed by bending opposite ends of the rods 10a... to project downward from a bottom at 20 of the shelf to lowermost ends” which supports the recitation of “a rod member connect[ing] the upper ends of the first pair of support legs,” as recited by Claim 67.

For each of the specifically identified claim recitation above, Applicant has provided an explanation of support in the present specification. All of these explanations rely on the disclosure of a non-limiting embodiment found in the specification. Other disclosures of other embodiments also support the specifically identified recitations of the claims. Thus, these explanations should not be construed as the only disclosures that support the specifically identified claim recitations. Support for those recitations can also be found at locations other than those specifically cited.

#### SUMMARY

For the reasons described above, Applicant respectfully request the Examiner withdraw the rejection of Claims 1-20, 22-24, 26-37, 39, 49-53, and 56-67 and pass these claims to allowance.

The undersigned has made a good faith effort to respond to all of the rejections and objections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant’s attorney in order to resolve such issue promptly.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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